

Session 13-03 a Regular Meeting of the Homer City Council was called to order on January 28, 2013 at 6:01 p.m. by Mayor Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS: BURGESS, DOLMA, LEWIS, ROBERTS, ZAK

ABSENT: HOWARD (excused)

STAFF: CITY MANAGER WREDE  
CITY CLERK JOHNSON  
COMMUNITY & ECONOMIC DEVELOPMENT  
COORDINATOR KOESTER  
FINANCE DIRECTOR MAURAS  
IT MANAGER POOLOS  
LIBRARY DIRECTOR DIXON  
PORT AND HARBOR DIRECTOR HAWKINS  
PUBLIC WORKS DIRECTOR MEYER

Councilmember Howard has requested excusal.

Mayor Wythe declared Councilmember Howard's absence as excused. There was no objection from the Council.

Council held a Special Meeting from 4:00 p.m. to 4:51 p.m. and met in Executive Session to discuss City Manager Wrede Annual Performance Evaluation/Employment Contract and Special Corps of Engineers Permit Modification Application for the Ocean Drive Loop Seawall. From 5:00 p.m. to 5:37 p.m. Council met as a Committee of the Whole to discuss Resolutions 13-007 and 13-008 and Regular Meeting Agenda items.

Department Heads may be called upon from time to time to participate via teleconference.

### **AGENDA APPROVAL**

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The agenda was approved by consensus of the Council with the following changes:

**PUBLIC HEARINGS - Ordinance 13-01(A)(S)**, An Ordinance of the Homer City Council, amending HCC 17.04.190 to Provide for Deferral of Special Assessments for Low Income Residents. Burgess; **ORDINANCES - Ordinance 13-02**, An Ordinance of the City Council of Homer, Alaska, Creating the City of Homer Natural Gas Distribution Special Assessment District, Approving the Improvement Plan for the District, and Authorizing the City Manager to

Proceed with the Improvement. City Manager; Memorandum 13-021 from City Attorney as backup; Memorandum 13-022 from Clerical Assistant as backup; Written public comments; Objections to the Natural Gas Special Assessment District; **CITY MANAGER'S REPORT** - Lobbyist Report, January 23, 2013.

## **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**

Lynn Whitmore spoke on Resolution 13-009, asking for an exemption to property tax for moose habitat properties.

Larry Slone, city resident, expressed opposition to Ordinance 13-02. The gas line has been rushed through with unfair costs and potential lawsuits. He suggested tying the assessment to property values.

Richard Gustafson, city resident, echoed Mr. Slone's comments.

Joyclyn Graham, city resident, opposes Ordinance 13-02. It is placing the cost of the pipeline on her back and she can't afford the conversion.

## **RECONSIDERATION**

## **CONSENT AGENDA**

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Regular Meeting minutes of January 14, 2013. City Clerk. Recommend adoption.
- B. **Memorandum 13-011**, from Mayor Wythe, Re: Appointment of Matt Strobel to the Library Advisory Board and Reappointments of Bob Howard and Steve Zimmerman to the Port and Harbor Advisory Commission.
- C. **Memorandum 13-012**, from Mayor Wythe, Re: Appointment of Councilmember Francie Roberts to the Emergency Operations Plan Review Committee.
- D. **Resolution 13-010**, A Resolution of the City Council of Homer, Alaska, Awarding the Art Work for the Four Public Restroom Facilities to Joshua Nordstrom of Homer, Alaska, in the Amount of \$4,200, Melisse Reichman of Homer, Alaska, in the Amount of \$4,610, and Sheila Wyne of Anchorage, Alaska, in the Amount of \$10,000 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk.

Memorandum 13-013 from the 1% for the Arts Selection Committee as backup.

- E. **Resolution 13-011**, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for City Hall, Parks, and Cemeteries Lawn Maintenance 2013, 2014, and 2015 to the Firm of Dutch Boy Landscaping of Homer, Alaska, in the Amount of \$30,085.64 Per Year and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk.

Memorandum 13-014 from Parks Maintenance Coordinator as backup.

- F. **Resolution 13-012**, A Resolution of the City Council of Homer, Alaska, Approving the Purchase of a 2004 Volvo EW180B Used Wheeled Excavator in the Amount of \$110,100 Through Pacific Rim Machinery, Inc. of Gig Harbor, Washington, and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

Memorandum 13-015 from Public Works Superintendent as backup.

- G. **Resolution 13-013**, A Resolution of the City Council of Homer, Alaska, Authorizing the Allocation of Up to \$2,500 from the Reimbursable Grant Established in Ordinance 12- 51(A) for the Purposes of Funding Phase 1 of the Tidal Energy Incubator Project. City Manager.

Memorandum 13-020 from Community and Economic Development Coordinator as backup.

Mayor Wythe called for a motion for the adoption of the consent agenda as read.

BURGESS/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **VISITORS**

### **ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORTS**

### **REPORT/COMMISSION**

- A. Borough Report

Kenai Peninsula Borough Assemblyman Bill Smith reported the Assembly introduced an ordinance to loan money to Kachemak City and the City of Homer for main extensions for the gas line. The ordinance has good support from the Assembly. There have been questions if the funds are coming out of the Borough's fund balance. It is not coming out of the fund balance and the loan will not cost the taxpayers. The Borough maintains both long and short term investments from a variety of service areas and hospital service funds. If the loan is made at an interest rate

favorable to both parties, everyone will benefit. Assemblyman Smith plans to go to Juneau with other Assembly members and will promote their Capital Improvement Projects along with the City's. One project is a new artificial turf field for both Homer and Soldotna high schools.

B. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission

Lars Bell, Parks and Recreation Advisory Commissioner, thanked Council for working on plans for the HERC building. An engineering firm is now beginning to work on the Kachemak Drive trail.

5. Port and Harbor Advisory Commission

C. 2013 Industry Outlook Forum – January 31<sup>st</sup> and February 1<sup>st</sup> at Land's End Resort

**PUBLIC HEARING(S)**

A. **Natural Gas Line Special Assessment District**

Mayor Wythe opened the public hearing.

Ken Castner, city resident, is a common property owner of a condominium. He commented on the legal and moral aspects of each condo being assessed. He has been on team Homer for 40 years and does not want to be an adversary.

Mayor Wythe closed the public hearing.

- B. **Ordinance 13-01(A)**, An Ordinance of the Homer City Council Amending HCC 17.04.190 to Provide for Deferral of Special Assessments for Low Income Residents. Burgess. Introduction January 14, 2013, Public Hearing and Second Reading January 28, 2013.

Memorandum 13-016 from Planning Technician as backup.

**Ordinance 13-01(A)(S)**, An Ordinance of the Homer City Council Amending HCC 17.04.190 to Provide for Deferral of Special Assessments for Low Income Residents. Burgess.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 13-01(A) for second and final reading.

BURGESS/ROBERTS – SO MOVED.

Mayor Wythe called for a motion to substitute Ordinance 13-01(A)(S) for Ordinance 13-01(A).

BURGESS/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe stated her conflict of interest on the gas line with the inclusion of Ordinance 13-01(A)(S) that provides for assessment deferrals for the natural gas special assessment district. Mayor Wythe passed the gavel to Mayor Pro Tempore Roberts.

Councilmember Burgess clarified the ordinance reads if you are 100% or below of the poverty level you can apply for deferral of special assessments. As the code currently stands this would only apply to infrastructure owned by the City. The substitute ordinance would allow deferrals to apply to city owned infrastructure and make an exception to include the gas line special assessment district.

The City Attorney has pointed out the substitute ordinance has changes that are substantive, thus another public hearing should be held.

Mayor Pro Tempore Roberts called for a motion to postpone to the next meeting.

ZAK/LEWIS - MOVED TO POSTPONE TO THE NEXT MEETING FOR A PUBLIC HEARING AND SECOND READING.

There was no discussion.

VOTE: (postponement) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **ORDINANCE(S)**

- A. **Ordinance 13-02**, An Ordinance of the City Council of Homer, Alaska, Creating the City of Homer Natural Gas Distribution Special Assessment District, Approving the

Improvement Plan for the District, and Authorizing the City Manager to Proceed with the Improvement. City Manager. Recommended dates: Introduction January 28, 2013, Public Hearing and Second Reading February 11, 2013.

Memorandum 13-017 from Planning Technician as backup.

Memorandum 13-018 from Clerical Assistant as backup.

Memorandum 13-021 from City Attorney as backup.

Memorandum 13-022 from Clerical Assistant as backup.

Mayor Wythe previously declared her conflict of interest in matters pertaining to the natural gas line.

Mayor Pro Tempore Roberts called for a motion for the adoption of Ordinance 13-02 for introduction and first reading by reading of title only.

BURGESS/LEWIS - SO MOVED.

Councilmember Burgess acknowledged the 14% of registered lots objection to the special assessment district. We have all spoken to the concerns raised. From a financial point of view looking at the true cost of alternative energy, the supply of gas, and other considerations, there are very few other things we can do to make Homer a cost effective and economically competitive place to live. The silent majority is supportive of the ordinance and we should follow their lead.

Councilmember Zak appreciates the comment earlier regarding the condominium associations. He has been asking the City Manager and City Attorney for input. The City Attorney has advised because condos are assessed individually at the borough level each individual owner should be assessed. Confusion began when we first started the special assessment district and referred to lots. Condominium owners own a percentage of the condominium lot. He still has some reservations, particularly to the moral standpoint. If we are restricted by Alaska Statutes to charge per parcel he may understand that. He will work to find more clarification and possibly another legal review on the condominium assessments.

Councilmember Burgess added there is merit to Mr. Castner and Councilmember Zak's comments. As to the Spit condos there are separate buildings on a single lot. If broken down by lot you have multi-million dollar properties benefiting separate parties sharing one assessment. At the other end of the spectrum in Mr. Castner's case you have a very compact structure with multiple businesses in the same structure. It is hard to come up with a legal approach that is equitable to both situations. It must be equitable to the property owners at large. Who are we to say that single family residents or owners of raw land should subsidize condominium owners? It is not Council's intention to be discriminatory or unfair; we have to apply the same rules to everybody.

VOTE: YES. LEWIS, ROBERTS, DOLMA, ZAK, BURGESS

Motion carried.

- B. **Ordinance 13-03**, An Ordinance of the City Council of Homer, Alaska, Authorizing the City to Issue a Natural Gas Distribution Special Assessment Bond in the Principal Amount of Not to Exceed \$12,700,000 to Finance the Design and Construction of Natural Gas Distribution Improvements in the City, Fixing Certain Details of Such Bond and Authorizing Its Sale; and Repealing HCC Chapter 17.08. City Manager. Recommended dates: Introduction January 28, 2013, Public Hearing and Second Reading February 11, 2013.

Mayor Wythe previously declared her conflict of interest in matters pertaining to the natural gas line.

Mayor Pro Tempore Roberts called for a motion for the adoption of Ordinance 13-03 for introduction and first reading by reading of title only.

LEWIS/BURGESS - SO MOVED.

There was no discussion.

VOTE: YES. BURGESS, LEWIS, ROBERTS, DOLMA, ZAK

Motion carried.

Mayor Pro Tempore Roberts passed the gavel back to Mayor Wythe.

### **CITY MANAGER'S REPORT**

- A. City Manager's Report
1. Memorandum 13-019 from City Manager, Re: Emergency Procurement / \$10,500 / Sewer Back-Up Emergency Relief.
  2. Lobbyist Report

City Manager Wrede reported an emergency procurement was issued for the backed up sewer line. He had discussed it with the Mayor and Department Heads and decided emergency relief for relocations and discomfort was the right thing to do. An investigation is still underway and the results should be completed this week. The appropriation will require an ordinance at the next meeting. Mayor Wythe asked that the City Manager stay in contact with the affected parties to let them know the outcome.

The lobbyist report was included in the packet. There are no updates to the report. Councilmembers commented on the good report of the lobbyist. The layout emphasizes issues pertinent to the City.

Councilmember Burgess requested that a tax exemption be provided for farm structures such as high tunnels or commercial agriculture operations. City Manager Wrede advised it would require council discussion and consent as a body to proceed with the request.

- B. Bid Report
- C. Records Inventory Report

### **CITY ATTORNEY REPORT**

### **COMMITTEE REPORT**

- A. Public Arts Committee
- B. Transportation Advisory Committee
- C. Permanent Fund Committee
- D. Lease Committee
- E. Port and Harbor Improvement Committee
- F. Employee Committee Report

### **PENDING BUSINESS**

### **NEW BUSINESS**

### **RESOLUTIONS**

- A. **Resolution 13-007**, A Resolution of the City Council of Homer, Alaska, Authorizing a Transfer of Responsibility Agreement (TORA) and a Transfer of Funds Between the City and the Alaska Department of Transportation and Public Facilities (ADOT/PF) Regarding Intersection Improvements and Traffic Control at Main Street and the Sterling Highway. City Manager.

Mayor Wythe called for a motion for the adoption of Resolution 13-007 by reading of title only.

Failed for lack of a motion.

- B. **Resolution 13-008**, A Resolution of the City Council of Homer, Alaska, Requesting that the Alaska Legislature Re-Appropriate the \$2 Million the City Received for Improvements at the Sterling Highway and Main Street Intersection to a New Port and Harbor Office and/or a New Skyline Drive Fire Station. Burgess.

Mayor Wythe called for a motion for the adoption of Resolution 13-008 by reading of title only.

**BURGESS/LEWIS – SO MOVED.**

The \$2 Million could be used on the Main Street/Sterling Highway intersection or be re-appropriated. DOT will upgrade the intersection and there is no guarantee we will receive any tangible benefit to the monies.

Councilmember Burgess commented the people annexed were promised Skyline Drive Fire Station to reduce insurance rates. Anything in excess can be put towards the Port and Harbor Office.

Councilmember Lewis noted the \$2 Million was re-appropriated from the Town Square project that was voted down. The monies were re-allocated to the intersection and now we are requesting another re-allocation.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. **Resolution 13-009**, A Resolution of the Homer City Council Exempting Kachemak Moose Habitat, Inc. from City Property Tax; Declaring that the Organization Satisfies the Criteria of Kenai Peninsula Borough Code 5.12.100, Real Property Tax-Exemptions-Community Purposes Property-Condition on Four (4) Parcels, Retroactive to January 1, 2013, and Authorizing the City Manager to Execute Any and All Associated Documents. Roberts/Lewis.

ROBERTS/LEWIS – MOVED TO ADOPT RESOLUTION 13-009.

Councilmember Roberts commented Kachemak Moose Habitat has done a lot to preserve moose here.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### COMMENTS OF THE AUDIENCE

Dave Brann, co chair of Kachemak Bay Water Trail Steering Committee, encouraged Council to follow up on the Pier One parcel and the water trail head for the kayak launch. He has been working closely with the Wooden Boat Society for their project. If one will delay the other he asked that the water trail head be the number one priority.

Jason Herreran, city resident, is new to the community and just purchased a home. He has concerns about no guaranteed gas supply, methods used for fracking, and no set price guarantee. We should be looking at wind, solar, and tidal power.

### COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner was not present.

## **COMMENTS OF THE CITY CLERK**

City Clerk Johnson had no comment.

## **COMMENTS OF THE CITY MANAGER**

City Manager Wrede had no comment.

## **COMMENTS OF THE MAYOR**

Mayor Wythe thanked everyone for attending. The Industry Forum will be held at Land's End on Thursday and Friday. She requested the trail head for the Kachemak Bay Water Trail be included on the Committee of the Whole agenda for February 11<sup>th</sup>.

## **COMMENTS OF THE CITY COUNCIL**

Councilmember Dolma commented that natural gas to Homer is controversial; it is difficult for everyone to feel it is fair. There are some winners and some losers. Council had to pick a way of being the most fair to the most people. He referenced Memorandum 13-022 and the percentages of people against gas: costs to homeowner and/or to the City 44%; concerns of future gas supply 16%; safety concerns 2%; doubted it would come to area 3%; condo owners 4%; public vote 2%; and renewable energy solar, wind, or tidal 10%. Natural gas is an interim solution for the next 20 years; the most economic solution. Another 16% object due to future gas supply as there is a shortage on the Peninsula. Worldwide we are awash in gas.

Councilmember Zak commented this Thursday and Friday the Economic Development District is having their Economic Outlook Forum at Land's End. There has been much economic development here this year with the Chamber, the Economic Development Advisory Commission, the City's economic development coordinator (Katie Koester), and the new marine trades. They are going to Seattle and getting the word out that Homer is open for business. If you weren't able to make the Forum this year there is always next year. This is the first year it was offered in Homer. We want everyone to know we care about our community and economic development. He hopes the condo owners do get a chance; he will be looking forward to hearing other comments. His real estate instructor Jerry Royce prides himself on helping homeowners associations. Councilmember Zak tried to communicate with the Council his concerns. The moral issue brought up today hurts him hard. The Alaska Statutes may need changing. If it is unclear let's do the right thing.

Councilmember Roberts commented Council was given a copy of every person's objection. She reassured everyone that she and other councilmembers read all the information. She has listened to a lot of you; we are hearing you and are trying our best to be as fair as we can to everyone. The lobbyist report is very much improved. Any Homer citizen would learn a lot of things to improve Homer in the lobbyist reports.

Councilmember Burgess commented through this process he has learned there are quite a few people in town who are really excited about alternative energy as a heating and power source. He

asked people that are serious about throwing their legislative weight behind an alternative energy project to talk to him. Economically in the short term we don't have many viable options, but long term there are options.

Councilmember Lewis wished the co-op hockey team Homer High, Voznesenka, and Kachemak Selo luck this week as they head to regions. They are possibly good enough to make it to State.

## **ADJOURNMENT**

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 6:58 p.m. The next Regular Meeting is Monday, February 11, 2013 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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JO JOHNSON, CMC, CITY CLERK

Approved: \_\_\_\_\_